

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

TIMOTHY E. HODGSON,
Plaintiff,

v.

UNITED STATES DEPARTMENT OF
AGRICULTURE, UNITED STATES
DEPARTMENT OF AGRICULTURE
FOREST SERVICE, and JOE STOUT in
his capacity as FOREST SUPERVISOR,
ELDORADO NATIONAL FOREST,
Defendants.

No. 2:24-cv-3797-DAD-SCR

FINDINGS AND RECOMMENDATIONS

Plaintiff Timothy E. Hodgson filed this action on December 30, 2024, after which it was assigned to the undersigned in accordance with Appendix A to the Local Rules. ECF No. 1. On June 11, 2025, the undersigned issued a minute order advising Plaintiff that the 90-day deadline to serve each Defendant with the Complaint and Summons, pursuant to Fed. R. Civ. P. 4(m), had passed. ECF No. 5. Plaintiff was ordered to show cause as to his failure to serve Defendants within 14 days. *Id.* The Court warned Plaintiff that failure to comply would result in recommendations to dismiss this action. *Id.* As of these Findings and Recommendations, Plaintiff has not complied with this order.

When deciding whether to recommend dismissal for failure to comply with a court order,

1 the Court must consider “(1) the public’s interest in expeditious resolution of litigation; (2) the
2 court’s need to manage its docket; (3) the risk of prejudice to the defendants; (4) the public policy
3 favoring disposition of cases on their merits; and (5) the availability of less drastic alternatives.”
4 *Ferdik v. Bonzelet*, 963 F.2d 1258, 1260-61 (9th Cir. 1992) (citation omitted). “The public’s
5 interest in expeditious resolution of litigation always favors dismissal.” *Yourish v. Cal. Amplifier*,
6 191 F.3d 983, 990 (9th Cir. 1999). The Court’s need to manage its docket also weighs in favor of
7 dismissal, particularly given the heavy caseload in this District. The third factor is neutral given
8 that Defendant has not yet appeared, but “[u]nnecessary delay inherently increases the risk that
9 witnesses’ memories will fade and evidence will become stale.” *Pagtalunan v. Galaza*, 291 F.3d
10 639, 643 (9th Cir. 2002). The fourth factor weighs against dismissal, but less so if Plaintiff is not
11 precluded from litigating this matter. The Court has considered less drastic alternatives and
12 concludes that dismissal without prejudice is appropriate.

13 Accordingly, **IT IS HEREBY RECOMMENDED THAT** this action be DISMISSED
14 WITHOUT PREJUDICE.

15 These findings and recommendations are submitted to the United States District Judge
16 assigned to this case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within fourteen (14)
17 days after being served with these findings and recommendations, Plaintiff may file written
18 objections with the court. Such document should be captioned “Objections to Magistrate Judge’s
19 Findings and Recommendations.” Local Rule 304(d). Plaintiff is advised that failure to file
20 objections within the specified time may waive the right to appeal the District Court’s order.
21 *Martinez v. Ylst*, 951 F.2d 1153 (9th Cir. 1991).

22 DATED: July 11, 2025

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25 SEAN C. RIORDAN
26 UNITED STATES MAGISTRATE JUDGE
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